

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ALFONSO SALINAS, BOP #42571-179
(TDCJ No. 1267715)

§

v.

§

CIVIL ACTION NO. 6:11cv254

BRANDON SHINAULT, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Alfonso Salinas, a former inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. Salinas is now confined in the United States Penitentiary - McCreary in Pine Knot, Kentucky.

In his complaint, Salinas asserts that while he was in state confinement, the Texas prison officials stole his personal property, including a home-made statute of a religious icon called Santa Muerte which Salinas fashioned out of soap. After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed with prejudice as to its refiling in federal court, but without prejudice as to any state law claims which Salinas could raise in the courts of the State of Texas. A copy of the Report was sent to Salinas at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except

upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 22) is hereby ADOPTED as the opinion of the District Court. It is further


ORDERED that the above-styled civil action be and hereby is DISMISSED as frivolous with prejudice as to its refiling in federal court, but without prejudice as to any claims in state court or through the administrative processes of TDCJ-CID which Salinas may elect to pursue. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED. Finally, it is

ORDERED that the Clerk shall send a copy of this opinion to the Administrator of the Strikes List for the Eastern District of Texas.

It is SO ORDERED.

SIGNED this 18th day of February, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE